

White House that if we could remove these, then they would be willing to accept this provision.

Now we find objections in the last day perhaps of the Congress. We find roadblocks. We find people stonewalling this, hoping the clock will run out so it is not passed. Talk about a double standard. Talk about a stonewalling so that the White House does not have to comply with all the rest of us. We are getting resistance. We are getting resistance from individuals who are trying to have it both ways. "Oh, yes, these ought to apply to the White House." The White House is saying, "Oh, yes, they should apply to us," whether it is the Family and Medical Leave Act, OSHA regulation, Fair Labor Standards Act. They said, "Oh, well, we comply with it in policy."

That is what we were saying around here: "Oh, we comply with it in policy. We don't need to comply by legal means."

Obviously, that is not true, and if we are going to apply that standard we ought to apply it to the American public as well. So if we are going to have a law, the law ought to apply equally to everybody in the land. It ought to apply to Congress, it ought to apply to the public, and it ought to apply to the White House. Everybody has now complied except the White House. On the one hand, they are saying, yes, we support this effort if you will make these changes. We made the changes reluctantly in order to get it through. And now they have apparently sent instructions or someone has decided that they are going to protect the White House by letting the clock run out and not let us pass this.

It passed the House 410 to 5. There were only 5 members who objected to this, and that is the tougher language they said they needed revised or weakened in order for them to support it. Reluctantly, Representative HORN and I met and agreed to drop that tougher language that had passed 410 to 5—only 5 opponents.

So it is clearly a bipartisan bill. We dropped that language and have now presented it, and we were totally under the assumption that this was absolutely cleared by everybody. If we drop the one piece of language that the White House objected to, that cleared the House by 410 to 5, then surely there would not be a problem over here. But, yet, we are getting all kinds of resistance back, in terms of passing this here in the last days.

I do not understand why we are in this situation, but—well, maybe I do understand. It was James Madison who wrote a long time ago, that "an effective control against oppressive measures by the Federal Government on the people is that Government leaders can make no law which will not have its full operation on themselves and their friends as well as on the great mass of society."

In other words, what is good for the goose is good for the gander. What is

good for the public, that we impose on them, ought to be good for us. We faced up to that fact. We stepped up to the bar with that. I was proud, under the leadership of Republicans, we imposed that on the Congress. Now we have to live by it. All we are trying to do now is extend it to the White House. They say they want it, yet efforts are being made to not allow it to go through.

Mr. President, I hope as we deal with these issues here at the last, waning moments of Congress, we will take our responsibilities seriously, and whether it is FAA or public lands or White House accountability, we will deal with this before this Congress adjourns.

I urge my colleagues to accept what the White House says it wants to accept, what the House in a total bipartisan fashion has accepted, and even a weakened version here in the Senate, that applies to the White House, is ready for passage if we can lift the restrictions against it.

Mr. President, I yield the floor.  
The PRESIDING OFFICER. Who seeks recognition?

The Senator from Massachusetts.

#### FEDERAL EXPRESS ANTILABOR RIDER TO FAA REAUTHORIZATION BILL

Mr. KENNEDY. Mr. President, I think I am entitled to 5 minutes. I yield myself 4½ minutes, Mr. President.

Mr. President, earlier in the discussion of the FAA and the special interest provisions that were included in the conference, I want to just point out there are some who have suggested this was really technical and it was not really a big deal. I hope our Members will review the House debate on it. The House of Representatives voted for final FAA reauthorization 219 to 198; 30 Republicans voted no.

It is useful for Members to have some opportunity to review that debate. Here Mr. LIPINSKI points out, in fact, talking about the conference, "In fact, there were no discussions between the conferees in regard to this particular provision until the absolute end of the conference when everything else was decided. A Senator brought forth a provision that prevailed." I understand that. But just because it prevailed in conference among 10 members, it should not mean that this House has to accept it.

Mr. President, earlier in the debate, Mr. Oberstar pointed out,

I thank the gentleman for yielding time. Let me just get the record straight on this express issue. The reason for ending the ICC investigation and oversight of express carriers was the concept of express carriers had become obsolete. The ICC staff itself recommended the elimination of express carrier status. It was not an oversight, it was not something someone neglected to do, something that was not negotiated in drafting, it was not a drafting error. It was done for good reason. The last express carrier went out of business in the mid-1970's.

So, since it was obsolete, there were no hearings. If you are going to expand

the definition of "express carrier" to include Federal Express, and amend effectively the National Labor Relations Act and the Railroad Act, you ought to have some kind of hearings to find out what the impact is going to be. That is basically what we are talking about here, is changing and expanding.

That is the same conclusion that these Members had, with what the CRS had. The ICC staff recommended it. Now we are being asked to put in these special kinds of provisions.

The House of Representatives, in a very close vote, for some of the reasons I have mentioned here—I will have more of a chance to bring in some of the excellent comments. We do not have the time this afternoon, but I understand we will have some time later on, to be able to get into this in greater detail. We will see why this is special legislation. It is special legislation for a special company. Let us make no mistake about it.

Federal Express wants to have a requirement that every truck driver in this country has to be a part of a national group in order to be able to be considered whether they can bargain with the company. A truck driver is a truck driver. The UPS has recognized the truck drivers for UPS are under the National Labor Relations Board. Why we ought to write special legislation in the last hour on the FAA conference report, that has so many important matters, including aviation safety, and that ought to be held hostage for a special provision for a special company is, I think, untenable.

But if that is the way it has to be, that is the way it has to be.

Mr. President, I understand there has to be additional debate on the underlying matter of the continuing resolution, so we will wait our time, and I yield what time we have.

The PRESIDING OFFICER. Who seeks recognition? The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield myself 4½ minutes, just like the distinguished Senator from Massachusetts.

Mr. President, "On balance," I am reading:

... the amendment would appear to confuse rather than clarify the question of Railway Labor Act coverage. On the one hand, it could be argued that the amendment would have no effect. Since neither Federal Express nor any other employer was certified as an express company, subject to title 49, on December 31, 1995, it would follow that no employer could come under the coverage of the proposed amendment.

That is an argument, if I were the lawyer for Federal Express, I would be delighted to make. But it shows you how totally confused, not the decision language makes it, but how confused this silly lawyer is over there. Because the ICC does not give an air carrier certification—period. They never gave one to Federal Express. He does not seem to understand that.

However, let us go to the basic law.

I read:

The Railway Labor Act was adopted in 1926 to provide for speedy administrative resolution of labor-management disputes. Section 1 of the RLA describes employers who are subject to the act's regulations: The term "carrier" includes any express company, sleeping car company, carrier by railroad subject to the Interstate Commerce Act.

So, they found, then, that it was an express carrier, and then in 1936, I am reading also from the finding:

The RLA was amended to include air carriers within its regulatory ambit.

That is exactly what was reaffirmed here in 1993:

Federal Express Corporation has been found to be a common carrier as defined under 45 U.S.C. 151, 1st, and section 1(e)(1) of the Act.

Now they have been found both ways. We are not trying to start anything new.

For 25, 30 years now this thing has been governing all the cases, bringing it right up to date with respect to that Philadelphia case. There is no question that the National Mediation Board ruled, they ruled with respect to the Railway Labor Act. No reference was relayed on with respect to express language.

On November 22—and, procedurally, the NLRB is now making a final ruling there. So this is not any last-minute thing by Mr. LIPINSKI, saying it was brought up at the last minute. He was prepared. He said, "This will kill the bill. We will filibuster it," and everything else. They have political clout. But I think truth ought to have some political clout.

When an honest mistake is made, when no Senator and no Congressman ever even suggested it, now, in the aura of dignity, they say, "Hearings, hearings, where are the hearings?" Well, where in the world were the hearings that brought about this deletion that we are trying to correct? That is exactly the point. They did not have hearings. No one understood it. No one proposed it. They made an honest mistake.

I reserve the remainder of my time.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

#### TRIBUTE TO RETIRING SENATORS

Mr. SHELBY. Mr. President, this, we hope, will be the last day of this Congress, and I would be remiss if I did not have some remarks about some of my colleagues, on both sides of the aisle, who are retiring.

The first one I would like to mention is my colleague from Alabama, Senator HOWELL HEFLIN. He came to the Senate, when I came to the House, in January 1979. He had a distinguished record as a lawyer and then as chief justice of the Alabama Supreme Court. He was very involved in the reform of our judicial system in Alabama.

In the Senate, he has served with distinction and honor. He chaired the Ethics Committee for a long time. He was also very active, and has been throughout his career, as a member of the Judiciary Committee and as a member of the Agriculture Committee.

But there are a number of other colleagues, other than Senator HEFLIN, whom we will miss.

Senator SIMPSON of Wyoming, former whip, our assistant minority leader, a man of untold ability, wit, and intelligence.

Senator SIMON of Illinois, a man of, I believe, unquestioned integrity.

Senator DAVID PRYOR of Arkansas, who was on the floor just a few moments ago, a former Congressman, former Governor of Arkansas, and now ending his third term as a Member of the U.S. Senate where he, too, has distinguished himself.

Senator CLAIBORNE PELL of Rhode Island, one of our senior Senators, chairman of the Foreign Relations Committee, very active for many, many years in the area of foreign relations and international relations. He also has made his mark in the field of education. We all know about the Pell grants and other things that he has spearheaded in America.

My colleague Senator SAM NUNN of Georgia. We will certainly miss Senator NUNN, because I always thought he brought a very reasoned position to foreign relations and to the Armed Services that we all deal with from time to time. I thought he was an outstanding—and this goes without saying—chairman of the Armed Services Committee where I had the privilege to serve with him on that committee for 8 years.

Senator NANCY LANDON KASSEBAUM, a Republican from Kansas, currently the chairman of the Education and Labor Committee, a distinguished Senator in her own right. We will certainly miss her. Look at just her recent leadership, working with the Senator from Massachusetts, Senator KENNEDY, in the insurance field in which we have made tremendous reforms, thanks to her.

Senator BENNETT JOHNSTON of Louisiana, former chairman of the Energy and Natural Resources Committee. We are certainly going to miss him. He has had a distinguished career here, 24 years in the U.S. Senate.

Senator MARK HATFIELD of Oregon, the current chairman of the Appropriations Committee that I now serve on. He has served with untold distinction, too, on that committee and has been involved in recent days and nights in the negotiations with the White House on this budget resolution that we are getting ready to deal with in just a few hours.

Senator JIM EXON of Nebraska, a former Governor of Nebraska, three-term Senator from Nebraska. I had the privilege of serving with him on the Armed Services Committee where he, too, served with honor and distinction.

Senator WILLIAM S. COHEN, a Republican from Maine, a former outstanding

Member of the U.S. House of Representatives before he was elected to the Senate. This is someone we will miss, not only his wit, his intelligence, his thoughtfulness, but also his writing ability at times helps us all.

Senator HANK BROWN, a Republican from Colorado. I had the honor to serve with him in the U.S. House of Representatives. What has saddened me, along with a lot of others, is, he will leave this body with such a bright and promising career after only 6 years.

Senator BILL BRADLEY of New Jersey, 18 years in the Senate, who has spent days and nights and weeks and months up here, I think not in vain, most of the time dealing with a commonsense income tax program for all Americans.

Mr. President, we will miss all these people because individually and collectively they have added a lot to this body. I wish them well in their future endeavors.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I yield 15 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

#### OMNIBUS CONSOLIDATED APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

##### AGE DISCRIMINATION

Mr. JEFFORDS. Mr. President, it will take weeks before we find out everything that has been included in the omnibus appropriations bill, but already we know it contains provisions that were not included in the appropriations bills of either body.

One of these provisions is section 119 of the Department of Defense Appropriations conference report, which contains amendments to the Age Discrimination in Employment Act.

This section would reinstate and substantially broaden a temporary exemption from the provisions of the ADEA given to public safety departments from 1986 through 1993.

Proponents of this language argue, and would probably like to believe, that this section does not amount to codification of discrimination. But here's how Webster's defines discrimination:

"To make a difference in treatment or favor on a class or categorical basis in disregard of individual merit."

That is a pretty clear statement. It is also a pretty good summary of the section in question. It says, in essence, that no one who is older than 55 can effectively serve as a police officer or firefighter, regardless of whether they are fit or unfit.